

REMARKS

Applicants respectfully request reconsideration of the instant application in the view of the foregoing amendments and the following remarks. Claims 1, 16, 42 and 45 are *independent*. Claims 14, 17, and 19-36 are previously canceled without prejudice or disclaimer. Claims 1, 16, 42 and 45 have been amended by way of this Amendment/Response. Although these claims have been amended herein to provide clarification, correct typographical inaccuracies and/or informalities, and/or to better track practical/commercial implementations/practices, Applicants submit that the originally filed claims are patentable and reserves the right to pursue the originally filed claims (as well as any claims dependent therefrom) at a later time and/or in one or more continuation application(s). Applicants submit that these claim amendments are supported throughout the originally filed specification and that no new matter has been added by way of these amendments. Claims 1-13, 15-16, 18, and 37-45 are pending in this application.

Claim Rejections - 35 U.S.C. § 101

The Office Action rejected claims 1-13, 15-16, 18 and 37-41 under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter. Applicants respectfully traverse this rejection. Applicants submit that there is no test for non-statutory subject matter that subjectively precludes the aforementioned claims. MPEP §2106, Section IV, states "claims directed to nothing more than abstract ideas (such as mathematical algorithms), natural phenomena, and laws of nature are not eligible for patent protection." MPEP §2106 also discusses "[w]hile abstract ideas, natural phenomena, and laws of nature are not eligible for patenting, methods and products employing abstract ideas, natural phenomena, and laws of nature to perform a real-world function may well be."

Applicants submit that the elements recited in noted claims are, in fact, directed to statutory subject matter and do not fall within the recognized Judicial Exceptions as merely abstract ideas (such as mathematical algorithms), natural phenomena, and/or laws of nature.

Although Applicants respectfully traverse the Examiner's rejection and reserves the right to argue patentability of the claims in their original form at a later time, Applicants have amended claims 1 and 16 to provide further clarification and/or to better track business practices.

Independent claim 1 recites, *inter alia*, a "processor-implemented method" comprising "... determining via a processor an agreement type ...". Moreover, independent claim 16 recites, *inter alia*, a "processor-implemented method" comprising "determining via a processor an agreement type." As such, Applicants respectfully submit that the claimed processor-implemented methods described in the claims are directed to statutory subject matter and are not precluded by any of the established categories of non-statutory subject matter.

Applicants further submit claims 2-13 and 15, which depend directly or indirectly from independent claim 1, as well as claims 18 and 37-41, which depend directly or indirectly from independent claim 16, are directed to statutory subject matter for at least the reasons discussed above. Should the Examiner maintain the rejection, Applicants respectfully request that the Examiner provide specific explanation describing how claims 1-13, 15-16, 18 and 37-41 are allegedly directed to non statutory subject matter. Accordingly, Applicant respectfully request reconsideration and withdrawal of these grounds of rejections.

Claim Rejections - 35 U.S.C. § 103

The Office Action rejected claims 1-11, 15-16, 18 and 37-45 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Pub 2002/0188539 A1 to Axelrad et al. (hereinafter "Axelrad"), in view of U.S. Pub 2001/0049651 A1 to Selleck (hereinafter "Selleck"), and further in view of U.S. Pub 2002/0069156 A1 to Adam et al. (hereinafter "Adam"). Applicants respectfully traverse the rejections and submit that the Examiner has not established a *prima facie* case of obviousness and that the pending claims are patentably distinct from the cited references, taken alone or in combination.

MPEP § 706.02(j) prescribes that a rejection under 35 U.S.C. § 103 should set forth:

- (i) the relevant teachings of the prior art relied upon,
- (ii) the differences in the claim over the applied references,
- (iii) the proposed modification of the applied references to arrive at the claimed subject matter, and
- (iv) an explanation as to why the claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made.

Applicants submit that the pending rejection has failed to properly establish at least the first two requirements of a *prima facie* case of obviousness, the relevant teachings of the prior art relied upon, as well as the differences in the claims over the applied references, and that the applied references, taken alone or in combination, fail to discuss or render obvious every element of each claim.

Independent claim 1 recites, *inter alia*:

A processor-implemented method for facilitating definition of a transaction agreement associated with a plurality of different product types, comprising:
automatically determining via a processor an agreement type based on the plurality of product types and a covered

products matrix, wherein the covered products matrix includes a plurality of covered product types and, for each covered product type, a plurality of transaction instruments, and additional party/counter-party agreement information;

...

In the pending rejection, the Examiner alleges that "Adam discloses a covered products matrix containing a particular product type and transaction instruments (Figure 4; paragraphs 25, 30, 58)" (page 4, paragraph 3, February 4, 2009 Office Action). Applicants respectfully disagree and submit that Adam does not discuss or render obvious at least the claimed "covered products matrix... wherein the covered products matrix includes a plurality of covered product types, for each covered product type a plurality of transaction instruments, and additional party/counterparty agreement information" as recited in independent claim 1.

Instead, more specifically, Applicants submit that Adam simply discusses "a system and method for implementing a true level- 2 trading methodology in the context of perishable agricultural commodities" (paragraph 25, Adam). Adam's trading system also "support[s] option trading and commodities" (paragraph 58, Adam). In Figure 4 of Adam, the level-2 trading system of Adam "illustrates an exemplary trading screen such as might be seen by registered buyers and sellers, and graphically presents the scope of an agricultural commodity market in level- 2 form" (Figure 4, paragraph 43, Adam). Adam also discusses "real-time display of seller 'asks' and buyer 'bid' " (paragraph 25, Adam) and "[a] commodity option screen 72" which indicates "the various options available for a particular chosen commodity " (paragraph 58, Adam). As such, Applicants submit that Adam's level-2 trading system discusses aspects of electronic trades of agricultural commodities and options, but does not discuss or render obvious at least the claimed "covered products matrix...wherein the covered products matrix includes...additional party/counter party agreement information" as recited in

independent claim 1.

Moreover, Applicants submit that neither Axelrad nor Sellock remedy the deficiencies identified above in Adam with regard to independent claim 1. Instead of the claimed "covered products matrix...wherein the covered products matrix includes...additional party/counter-party agreement information", Axelrad discusses "a system for private equity fund formation comprises an equity fund application and a memory configured to store fund documents" (abstract, Axelrad). Applicants further submit that Selleck discusses "a trading system and method for use on a global communications network such as the Internet and accessible by anyone with Internet access and an account" (abstract, Sellock), and as such also fails to remedy the deficiencies identified above in Adam with regard to independent claim 1.

Accordingly, Applicants submit that the cited references, taken alone or in combination, fail to discuss or render obvious independent claim 1 for at least these reasons discussed above. Should the Examiner maintain the rejection, Applicants respectfully request further clarifications as to how particular parts of the applied references discuss the claim elements as recited in independent claim 1. As claims 2-11 depend directly or indirectly from independent claim 1, Applicants respectfully submit that claims 2-11 are patentably distinct from the cited references, taken alone or in combination, for at least similar reasons to those discussed above identifying deficiencies in the cited references with regard to independent claim 1.

Applicants further submit that the pending rejection has provided no indication of the level of ordinary skill in the art. MPEP § 2141 (II)(C) states, "Any obviousness rejection should include, either explicitly or implicitly in view of the prior art applied, an indication of the level of ordinary skill." The pending rejection refers to, "one of ordinary skill in the art at the time of the invention..." (e.g., page

4, paragraph 2, February 4, 2009 Office Action) but has provided no indication or discussion of the level of ordinary skill associated therewith. MPEP § 2141.03 (III) states, "The importance of resolving the level of ordinary skill in the art lies in the necessity of maintaining objectivity in the obviousness inquiry." Applicants submit that impermissible hindsight has been applied in asserting obviousness of the various claim elements without providing an indication of the level of ordinary skill. As such, Applicants respectfully request that, if the Examiner maintains this rejection, the Examiner discuss the level of ordinary skill in the art at the time of the invention and clarify how the claimed subject matter would have been obvious to one possessing that level of skill.

Although of different scope than independent claim 1, Applicants submit that independent claim 16 (and claims 18, 37-41 directly or indirectly dependent therefrom), independent claim 42 (and claims 43, 44 dependent therefrom), and independent claim 45 are patentably distinct from the various cited references, taken alone or in combination, for at least similar reasons to those discussed above. Accordingly, Applicants respectfully request reconsideration and withdrawal of these grounds of rejections.

Conclusion

Consequently, the reference(s) cited by the office action do not result in the claimed invention, there was/is no motivation, basis and/or rationale for such a combination of references (i.e., cited references do not teach, read on, suggest, or result in the claimed invention(s)), and the claimed inventions are not admitted to be prior art. Thus, the Applicants respectfully submit that the supporting remarks and claimed inventions, claims 1-13, 15-16, 18, and 37-45, all: overcome all rejections and/or objections as noted in the office action, are patentable over and discriminated from the cited reference(s), and are in a condition for allowance. Furthermore, Applicants believe that the above remarks, which distinguish the claims over the cited reference(s), pertained only to noted claim element portions. These remarks are believed to be sufficient to overcome the prior art. While many other claim elements and/or bases for rejection were not discussed as they have been rendered moot based on the above amendments and/or remarks, Applicants assert that all such remaining and not discussed claim elements and/or bases for rejection, all, also are distinguished over the prior art and reserves the opportunity to more particularly traverse, remark and distinguish over any such remaining claim elements and/or bases for rejection at a later time should it become necessary. Further, any remarks that were made in response to an Office Action objection and/or rejection as to any one claim element, and which may have been re-asserted as applying to another Office Action objection and/or rejection as to any other claim element(s), any such re-assertion of remarks is not meant to imply that there is commonality about the structure, functionality, means, operation, and/or scope of any of the claim elements, and no such commonality is admitted as a consequence of any such re-assertion of remarks. As such, Applicants do not concede that any claim elements have been anticipated and/or rendered obvious by any of the cited reference(s). Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection(s) and/or objection(s), and allowance of all claims.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 03-1240, Order No. 17209-339. In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 03-1240, Order No. 17209-339.

In the event that a telephone conference would facilitate examination of the application in any way, the Examiner is invited to contact the undersigned at the number provided.

Respectfully submitted,
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